

CITY OF ST. CHARLES

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ORDINANCE NO. 1987-M-45

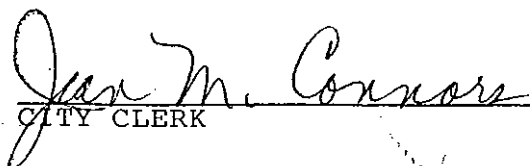
AN ORDINANCE AMENDING TITLE 16,  
"SUBDIVISIONS AND LAND IMPROVEMENT"  
OF THE ST. CHARLES MUNICIPAL CODE

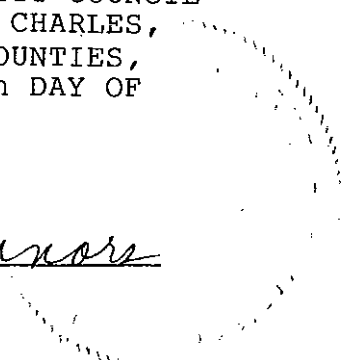
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ADOPTED BY THE  
CITY COUNCIL  
OF THE  
CITY OF ST. CHARLES  
THIS 4th DAY OF MAY, 1987

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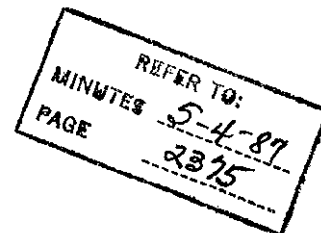
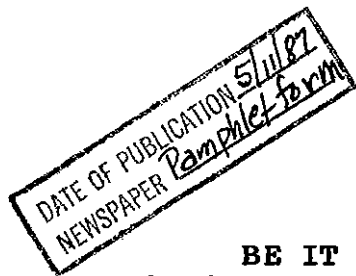
PUBLISHED IN PAMPHLET FORM BY  
AUTHORITY OF THE CITY COUNCIL  
OF THE CITY OF ST. CHARLES,  
KANE AND DU PAGE COUNTIES,  
ILLINOIS, THIS 11th DAY OF  
MAY, 1987

  
CITY CLERK



ORDINANCE NO. 1987-M- 45

AN ORDINANCE AMENDING TITLE 16,  
"SUBDIVISIONS AND LAND IMPROVEMENT"  
OF THE ST. CHARLES MUNICIPAL CODE



BE IT ORDAINED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, that Title 16, "Subdivisions and Land Improvement", of the St. Charles Municipal Code be and is hereby amended as follows:

1. That Chapter 16.04, "General Provisions", is hereby amended by adding thereto the following:

**16.04.040 Approval Not to Constitute Acceptance**

The approval of a preliminary plan, engineering plan, or final plat as set forth herein shall not constitute an acceptance by the City of any Land Improvement.

2. That Chapter 16.08, "Rules and Definitions", Section 16.08.150, "Land Improvements", is hereby amended by deleting said Section and substituting the following therefor:

**16.08.150 Land Improvements.**

"Land Improvements" are sanitary sewer, storm sewer and water systems, including all appurtenances thereto, retention and detention basins, grading and surface drainage ways and facilities, curbs, paving, streets, street lighting, sidewalks, street signs, seeding, and tree plantings.

3. That Chapter 16.08, "Rules and Definitions", Section 16.08.310, "Subdivision" is hereby amended by deleting said Section and substituting the following therefor:

**16.08.310 Subdivision.**

"Subdivision" means: 1) A described tract of land which has been or is to be divided into two (2) or more lots, parcels, or tracts, for the purpose, either immediate or future, of transfer of ownership, lease, or building development, including a resubdivision for any such purpose, and 2) A planned unit development involving one or more parcels of land; and 3) A described tract of land which has been or is to be developed which includes the installation of on-site public improvements which are intended to be accepted by the City for purposes of ownership and maintenance.

4. That Chapter 16.12, "Procedure", is hereby amended by deleting said Chapter and substituting the following therefor:

**16.12.010 Applicability**

The provisions hereof shall be applicable to all subdivisions in the City of St. Charles and within all unincorporated areas lying within one and one-half miles of the corporate limits of the City of St. Charles, to the extent permitted by law.

**16.12.020 Recommendation and Approval of Variations**

The plan commission may recommend and the City Council may approve variations from the requirements of this title in specific cases, when the Plan Commission finds that there is compliance with the following standards:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
2. Because of the shape, topography, or other physical conditions of the proposed subdivision or its surroundings, a) a hardship or practical difficulty would be caused by strict compliance with these requirements, and/or b) the purposes of these requirements would be served to a greater extent by an alternative design;
3. The conditions upon which the variation request is based are unique to the proposed subdivision and are not generally applicable to other property;
4. The variation granted is the minimum adjustment necessary for the reasonable use of the land.

**16.12.030 Preliminary plan - Filing - Fee.**

A subdivider shall file one copy of the preliminary plan with the City Clerk and twenty-one copies with the Director of City Planning a minimum of twenty-one days prior to the Plan Commission meeting at which it will be an agenda item, accompanied by the filing fee in accordance with the schedule of fees contained herein.

**16.12.040 Preliminary plan - Referral**

The City Council shall refer the preliminary plan to the Plan Commission for review. The Director of City Planning shall distribute copies of the preliminary plan to the Plan Commission and City staff.

**16.12.050 Preliminary plan - Plan Commission Review and Action.**

The City staff and Plan Commission shall review the

preliminary plan for conformance with the Comprehensive Plan, the provisions hereof, and all other applicable City ordinances. Pursuant to Paragraph 11-12-8 of the Illinois Municipal Code, the Plan Commission shall disapprove or recommend approval of the preliminary plan within 90 days from the date of filing of the last item of required supporting data. Such time may be extended by mutual consent of the subdivider and the Plan Commission.

**16.12.060 Preliminary plan - Plan Commission Disapproval**

Plan Commission disapproval of a preliminary plan shall be in writing and shall state the reasons therefor and how the proposed preliminary plan fails to conform to the Comprehensive Plan, the provisions hereof, and other applicable City ordinances. A copy of such disapproval shall be mailed or delivered to the subdivider and the City Council. Pursuant to Paragraph 11-12-8 of the Illinois Municipal Code, if the Plan Commission disapproves the preliminary plan, it shall be considered denied and shall not be presented to the City Council for final action.

**16.12.070 Preliminary Plan - Plan Commission Approval**

Plan Commission recommendation of approval of a preliminary plan shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the recommendations and any conditions shall be forwarded to the City Council.

**16.12.080 Preliminary plan - City Council Action**

Pursuant to Section 11-12-8 of the Illinois Municipal Code, the City Council shall approve or disapprove the preliminary plan not later than 30 days after the next regular City Council meeting following the date of the Plan Commission's approval, unless such time is extended by mutual consent of the City Council and subdivider.

**16.12.090 Preliminary plan - Council Disapproval.**

City Council disapproval of a preliminary plan shall be in writing and shall state the reasons therefor and how the proposed preliminary plan fails to conform to the Comprehensive Plan, the provisions hereof, and other applicable City ordinances. A copy of such disapproval shall be mailed or delivered to the subdivider.

**16.12.100 Preliminary plan - Council Approval.**

City Council approval of a preliminary plan shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the approval and any conditions shall be mailed or delivered to the subdivider.

**16.12.110 Preliminary plan - Period of validity.**

A preliminary plan shall remain valid for a period of one year from the date of City Council approval. If a complete application for approval of a final plat for all or any part of the land encompassed by the preliminary plan is submitted within such one year period of validity, the preliminary plan shall remain valid for one additional year commencing upon submittal of such application or until the City Council approves or disapproves such final plat, whichever is earlier. If a final plat is approved and recorded encompassing all or any part of the land included on the preliminary plan, the preliminary plan as to the balance shall remain valid for a period of five years from the date of its initial approval, unless specifically revoked by the City Council.

**16.12.120 Engineering Plan Approval.**

The subdivider shall submit to the Director of City Planning six copies of the engineering plan described herein. The Director of City Planning shall refer the engineering plan to the City Staff for review. Such plan shall be in substantial conformance with the preliminary plan with respect to all items specifically shown on the preliminary plan. If the City Engineer and Director of City Planning determine that the engineering plan meets the requirements of the St. Charles Municipal Code, the Director of City Planning shall so notify the Plan Commission. The subdivider shall reimburse the City for review time in accordance with the schedule of fees contained herein.

**16.12.130 Engineering Plan Variations.**

If the City Engineer and Director of City Planning determine that the engineering plan does not meet the requirements of the St. Charles Municipal Code, the subdivider may file a written request for approval of a variation or variations. Such request shall be referred to the Plan Commission and City Council for review. To the extent permitted by law, the City Council may grant variations from the engineering plan requirements in specific cases in accordance with the provisions hereof governing variations.

**16.12.140 Final plat - Submittal and Review.**

The subdivider shall file one copy of the final plat with the City Clerk and twenty-one copies with the Director of City Planning a minimum of twenty-one days prior to the Plan Commission meeting at which it will be an agenda item. The Director of City Planning shall refer the final plat to the City staff and Plan Commission for review and recommendation. The final plat shall substantially conform to the preliminary plan with respect to all items specifically shown on the preliminary plan. The final plat shall include substantially the same geographic area as the engineering plan.

**16.12.150 Final plat - Plan Commission Disapproval.**

A recommendation of disapproval of the final plat by the Plan Commission shall be in writing and shall state how proposed final plat fails to conform to the approved preliminary plan, the provisions hereof, and other applicable City ordinances. A copy of such recommendation shall be mailed or delivered to the subdivider and to the City Council.

**16.12.160 Final plat - Plan Commission Approval.**

The Plan Commission shall not recommend approval or disapproval of a final plat until it has received notice of approval of the engineering plans by the City staff; provided, however, that the final plat and a request for engineering plan variations may be considered simultaneously. A Plan Commission recommendation of approval of the final plat shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the recommendations and any conditions shall be forwarded to the subdivider and the City Council.

**16.12.170 Final plat - City Council Action.**

After receiving the Plan Commission's recommendation of approval or disapproval, the City Council shall approve or disapprove the final plat within sixty days following the filing of the last required document, unless such time is extended by mutual consent of the City Council and subdivider.

**16.12.180 Final plat - City Council Disapproval.**

City Council disapproval of a final plat shall be in writing stating how the proposed final plat fails to conform to the approved preliminary plan, the provisions hereof, and other applicable City ordinances. A copy of such disapproval shall be filed in the office of the City Clerk by the Director of City Planning.

**16.12.190 Final Plat - City Council Approval.**

The final plat submitted to the City Council shall be accompanied by the following:

- A. A copy of the Illinois Environmental Protection Agency permit for the sanitary sewer installation, if required;
- B. A copy of the Illinois Environmental Protection Agency permit for the water main installation, if required;
- C. An acknowledgement executed by the subdivider accepting the responsibility for the installation of the Land Improvements as shown on the approved engineering plans and specifications. This acknowledgement shall include an agreement by the subdivider that he shall furnish qualified field supervision of the installation of all Land Improvements in the person of a registered engineer approved by the City;

- D. A certified estimate of cost of all Land Improvements prepared by a registered engineer;
- E. A draft or description of the proposed guarantee for the payment and completion of the Land Improvements remaining to be installed.

Prior to the approval of a final plat the City Council shall have the right to designate which easements, dedications, and Land Improvements will be accepted by the City. Approval of the final plat by the City Council shall be in writing, one copy of which shall be sent to the subdivider and another shown on the plat.

#### **16.12.200 Oversizing**

In the event City requests subdivider to oversize any Land Improvement, such oversizing shall take place on the following basis: The City Engineer and the subdivider's Engineer shall prepare cost estimates indicating the construction cost for the Land Improvement and for the oversized Improvement requested by the City. Such estimates shall be subject to approval of the City Council. The subdivider shall install the oversized Improvement in compliance with City ordinance and state and federal requirements. The actual cost difference for construction will be assumed by the City. Reimbursement for such cost difference shall be made to the subdivider upon acceptance of such Land Improvement by the City Council subject to budget and timing as may be in accordance with law and as may be agreed on by subdivider and City, or otherwise approved by the City, and provided City shall be in receipt of a general contractor's affidavit and lien waivers in accordance with the Illinois Mechanics Lien Act and a Bill of Sale conveying title to the City free and clear of all liens and encumbrances. All engineering, insurance, and inspection costs shall be paid by subdivider. The operation of any State law or City ordinance having general applicability to all entities in a class including subdivider shall not be deemed to be a request by City as herein described.

#### **16.12.210 Transfer of Dedications and Easements.**

After approval of a final plat and prior to signature by the Mayor and City Engineer, the subdivider shall submit the following for acceptance by the City Council: a) title, free and clear of all liens and encumbrances, to the land dedications which the City has designated for acceptance; and b) at no cost to the City, easements which the City has designated for acceptance.

#### **16.12.220 Guarantee for Completion of Improvements**

After approval of a final plat and prior to signature by the Mayor and City Engineer, the subdivider shall submit a guarantee for completion of the Land Improvements. Subject to the approval of the City Council, completed Land Improvements may be omitted from the amount of the guarantee. For purposes of this section, completed Land Improvements shall be those Land Improvements

a) which have been previously accepted by the City Council, or b) which have been installed and for which the subdivider submits a Bill of Sale and a contractor's affidavit and lien waivers in accordance with the Illinois Mechanic's Lien Act, or c) which the City has not designated for acceptance, and which the City Council acknowledges as complete. The guarantee shall be in one of the following described formats, with the form, amount and provider being subject to approval of the City Council:

- A. Deposit with the City a subdivider's bond in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed.
- B. Deposit with the City cash in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed.
- C. An undertaking by subdivider guaranteeing completion of the Land Improvements remaining to be completed, as secured by an irrevocable letter of credit certifying that adequate funds are and will be available at a sound and reputable banking or financial institution authorized to do business in the State of Illinois. Such irrevocable letter of credit shall be in effect for a period of two and one half (2 1/2) years from the date of recording of the final plat, shall run in favor of the City and shall indicate there are sufficient funds available for one hundred fifteen percent (115%) of the estimated cost of all the Land Improvements remaining to be completed, and that such funds are held for such purposes only and for no other purposes. Such undertaking and irrevocable letter of credit shall be in a form to allow the City to procure the funds to complete the Land Improvements if construction of said Improvements is not completed in accordance with the provisions hereof, and shall otherwise be in a form acceptable to the City Council.

**16.12.230 Final plat - Recording requirements.**

The City shall record the final plat at the Kane or DuPage County recorder's office within 30 days of receipt by the City of the last item herein required to be submitted prior to recording. In the event such recording has not occurred within six months of the date of City Council approval, the final plat and accompanying documents shall be reviewed by the Director of City Planning and City Engineer to determine continued conformity with then-existing law and ordinance. The results of such review and recommendation shall be referred to the City Council for revocation or extension of the final plat approval, with such conditions as the City Council may approve.

**16.12.240 Completion of Land Improvements.**

All Land Improvements as defined in Section 16.08.150



shall be installed and completed within a period of two years after recording of the final plat, unless prior to the expiration of the two-year period an extension of time is requested by the subdivider and granted by the city council. Failure of the subdivider to complete all of said Improvements within such two-year period or any extension thereof shall result in forfeiture of the guarantee collateral. A request for an extension shall not halt the running of the two-year period. No extension shall be granted unless adequate guarantee collateral has been received and approved by the City Council. In the event building permits have been issued for more than fifty percent of the lots, no extension of the time period shall be granted. In the event of failure to complete the Land Improvements in the required period, or any extension, as stated above, the City Council may direct that no further building permits be issued for property in such subdivision until acceptance or acknowledgement of completion by the City Council of the Land Improvements.

**16.12.250 Inspection of Land Improvements.**

All Land Improvements to be installed under the provisions of this title shall be checked during the course of construction by, or at the direction of, the City Engineer. The cost of any reinspection of any Land Improvement found to be faulty or not in accordance with the approved plans and specifications shall be paid by the subdivider to the city. The testing of any concrete, asphalt, soil, or other materials, and/or workmanship shall be done at the direction of the City, and at the expense of the subdivider.

**16.12.260 Release of guarantee for completion.**

The guarantee for completion of the Land Improvements shall be released only upon fulfillment of the following conditions:

- A. The completion of the Land Improvements;
- B. The submission of one (1) set of reproducible (mylar) as-built drawings of the Land Improvements;
- C. A Bill of Sale and a contractor's affidavit and lien waivers in accordance with the Illinois Mechanic's Lien Act, for all Land Improvements which have been designated by the City Council for acceptance.
- D. The submission to the City of a deposit in cash, irrevocable letter of credit (subject to approval of the City Council), or surety bond, equal to fifteen percent of the cost of the Land Improvements. This deposit shall be a guarantee of satisfactory performance of the Land Improvements and shall be held by the City for a period of 12 months after acceptance by the City Council. After such 12 months the deposit shall be refunded if no defects have developed, or if any defects have developed, then the remaining deposit shall be released, subject to payment for amounts expended or to be expended in correcting defects.

- E. Final acceptance, by resolution of the City Council, of the Land Improvements which have been designated by the City Council for acceptance, and acknowledgement, by resolution of the City Council, of completion of the Land Improvements which have not been designated for acceptance.

**16.12.270 Fees - Payment by subdivider.**

The subdivider shall pay all filing, review and inspection fees in accordance with the schedule of fees established by the City Council, and shall reimburse the City for the costs of court reporter fees, recording fees, and attorney's fees (including those of the City Attorney).

**16.12.280 Fees - Schedule.**

The following schedule of fees is established for the filing and review of all subdivision plans and the inspection of subdivision construction:

- A. Filing fee (payable when preliminary plan is filed):
  - 1. For one to twenty lots, two hundred dollars;
  - 2. For more than twenty lots, two hundred dollars plus ten dollars for each lot in addition to twenty lots;
- B. Reimbursement for professional services:
  - 1. Recording fees;
  - 2. A traffic analysis performed by a member of the Institute of Transportation Engineers and approved by the City Engineer, when such traffic analysis is requested by the city.
  - 3. Fees for attorney's review and negotiations in connection with the filing, review and construction of the subdivision.
- C. Reimbursement for City staff review: One and one half times the hourly rate or pro rata salary of each City staff member reviewing subdivision plans, plats, and other required documents. These fees shall be paid by the subdivider according to the following schedule:
  - 1. For preliminary plan: prior to submittal of the engineering plan.
  - 2. For engineering plan and final plat: prior to recording of the final plat.
- D. Engineering Inspection: Fees for engineering inspection during the construction of the Land Improvements shall be based on hourly rates established by the City Council for day to day inspection and for the closed circuit television inspection of the sanitary sewer lines.

5. That Chapter 16.16, "Preliminary Plan", Section 16.16.010, "Requirements Generally", is hereby amended by deleting said section and substituting the following therefor:

**16.16.010 Requirements generally.**

The preliminary plan shall show the information required by Section 16.16.020 through 16.16.050 and required materials under Title 18. The preliminary plan shall be accompanied by a properly executed checklist as set forth in Section 16.36.010.

6. That Chapter 16.20, "Engineering Plan", Section 16.20.010, "Requirements Generally", is hereby amended by deleting said section and substituting the following therefor:

**16.20.010 Requirements generally.**

The engineering plan shall show the information required in Sections 16.20.020 through 16.20.060 and required materials under Title 18. The engineering plan shall be accompanied by a properly executed checklist as set forth in Section 16.36.020.

7. That Chapter 16.24, "Final Plat", Section 16.24.010, "Requirements Generally", is hereby amended by deleting said section and substituting the following therefor:

**16.24.010 Requirements generally.**

The final plat shall show the information required by Sections 16.24.020 through 16.24.040. The final plat shall be accompanied by a properly executed checklist as set forth in Section 16.36.030.

8. That the following sections are hereby deleted:

- 16.16.060, "Approval"
- 16.20.070, "Approval"
- 16.24.050, "Approval"
- 16.24.060, "Guarantee Collateral"

9. That Chapter 16.28, "Variation", is hereby deleted.

10. That Chapter 16.36, "Checklists", Section 16.36.010, "Preliminary Plan", item 1 and item 20-A-3-e, are hereby deleted and the following substituted therefor:

item 1: Twenty-two copies of preliminary plan submitted;

item 20-A-3-e: terminus roadway width is 90' diameter

11. That Chapter 16.36, "Checklists", Section 16.36.020, "Engineering Plan", item 2, item 10, and item 12, are hereby deleted and the following substituted therefor:

item 2: Six copies of engineering plans submitted;

item 10: An application for an Illinois Environmental Protection Agency Permit for the sanitary sewer extension accompanies the plans;

item 12: An application for an Illinois Environmental Protection Agency Permit for the water main installation accompanies the plans;

12. That Chapter 16.36, "Checklists", Section 16.36.030, "Final Plat", item 1, item 2, item 5, item 19-B and item 19-C, are hereby deleted and the following substituted therefor:

item 1: Plat has been submitted prior to expiration of preliminary plan approval;

item 2: Engineering plan has been submitted;

item 5: Twenty-two copies of the final plat have been submitted;

item 19-B: A copy of the Illinois Environmental Protection Agency Permit for sanitary sewer installation,

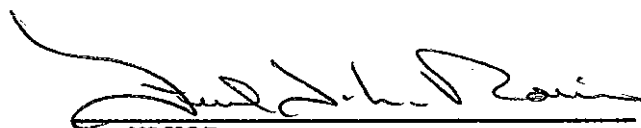
item 19-C: A copy of the Illinois Environmental Protection Agency Permit for water main installation,

**PRESENTED** to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 4th day of May, 1987.


**PASSED** by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 4th day of May, 1987.

**APPROVED** by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois, this 4th day of May, 1987.

Ordinance No. 1987-M-45  
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MAYOR

ATTEST:

  
CITY CLERK

COUNCIL VOTE:

Ayes: 10  
Nays: 0  
Absent: 0

STATE OF ILLINOIS                    )  
  )  
COUNTIES OF KANE AND DU PAGE    )       SS.

C E R T I F I C A T E

I, Jean M. Connors, certify that I am the duly  
elected and acting municipal clerk of the City of St. Charles, Kane and  
DuPage Counties, Illinois.

I further certify that on May 4, 1987 the  
Corporate Authorities of such municipality passed and approved Ordinance  
No. 1987-M-45, entitled AN ORDINANCE AMENDING TITLE 16,

"SUBDIVISIONS AND LAND IMPROVEMENT" OF THE ST. CHARLES

MUNICIPAL CODE

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 1987-M-45, including the  
Ordinance and a cover sheet thereof was prepared, and a copy of such  
Ordinance was posted in the municipal building, commencing on  
May 11, 1987, and continuing for at least ten days thereafter.  
Copies of such Ordinance were also available for public inspection upon  
request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 11<sup>th</sup> day of May,  
1987.

Jean M. Connors  
Municipal Clerk

(S E A L)